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This information sheet has been prepared by the Cybercrime Programme Office (C-PROC) of the Council of Europe in view of facilitating international cooperation. It does not necessarily reflect official positions of the State covered or of the Council of Europe.

1. Categories of Data (subscriber information, traffic data, content data)

1.1. Definitions under national legislation

<p>Subscriber Information</p> <p>There is no definition for "Subscriber Information", in the Criminal Procedurial Code of Albania.</p>	<p>There is no definition for "Subscriber Information", in the Criminal Procedurial Code of Albania.</p> <p>The term of "Subscriber Information", is used in the article 191/a of Criminal Procedurial Code, as follows:</p> <p>Obligation to submit computer data (Production order)</p> <ol style="list-style-type: none"> 1. <i>The court, in the case of criminal proceedings in the field of information technology, at the request of the prosecutor or the accusatory parties, orders a subject to submit specified computer data in her/her possession or control, which is stored in a computer system or a computer-data storage medium.</i> 2. <i>The court, in these proceedings, also orders the service provider to provide any <u>information to the subscribers</u> who have agreed, for the services provided by the provider.</i> 3. <i>When there are well-founded reasons to think that the delay may cause serious damage to the investigation, the prosecutor decides, with a motivated act, the obligation to present computer data, defined in points 1 and 2 of this article. and notifies the court immediately. The court evaluates the prosecutor's decision within 48 hours of notification.</i>
<p>Traffic Data</p> <p>There is no definition for "Traffic Data", in the Criminal Procedurial Code of Albania.</p>	<p>There is no definition for "Traffic Data", in the Criminal Procedurial Code of Albania.</p> <p>The term of "Traffic Data", is used in the article 299/a of Criminal Procedurial Code, as follows:</p> <p>Expedited preservation and maintenance of stored computer data.</p> <ol style="list-style-type: none"> 1. <i>The prosecutor may order the expedited preservation of certain computer data, including <u>traffic data</u>, in cases where there are sufficient reasons to believe that the data might get lost, damaged or changed.</i> 2. <i>In the case where the computer data are in possession or control of a person, the prosecutor may order such person to preserve and maintain such computer data for a period up to 90 days with the aim of uncovering and extracting them. Such term may be extended only once for founded reasons.</i> 3. <i>The person in charge for the computer data preservation and maintenance is obliged to keep secrecy on the procedures and actions carried out, as per paragraph 2 of this Article until the end of the investigations.</i> <p><i>Also the term "Traffic Data", is used in the article 299/b of Criminal Procedurial Code as follows:</i></p> <p>Expedited preservation and partial disclosure of traffic data</p>

	<p><i>1. The person in charge of the Expedited preservation of the traffic data is obliged to take all necessary measures, in order to ensure that the preserved data are valid, regardless of whether one or more service providers have been involved in the transmission of the communication, as well as to provide to the prosecutor or the authorized judicial police officer the uncover of a sufficient amount of traffic data in order to enable the identification of the service provider and the gate throughout which the communication has been transmitted.</i></p>
<p>Content Data</p> <p>There is no definition for "Content Data", in the Criminal Procedural Code of Albania.</p>	<p>There is no definition for "Content Data", in the Criminal Procedural Code of Albania.</p> <p>The term of "Content Data", is used as seizure of computer data in the article 208 of Criminal Procedural Code as follows:</p> <p>Seizure of computer data</p> <p><i>1. In cases of proceedings against crimes concerning information technology, the court upon request of the prosecutor, shall order the seizure of computer data or computer systems. With the same decision, the court shall establish the right to access, search and get computer data from the computer system as well as the prohibition to perform further actions or the securing of the computer data or system.</i></p> <p><i>2. If there are reasonable grounds to believe that the computer data have been stored in another computer system or in any parts of it, and such data may be legally obtained by, or in the availability of, the initial computer system being controlled, the court upon request of the prosecutor shall immediately order the search or access to such computer system.</i></p> <p><i>3. In executing the court decision, the prosecutor or the judicial police officer authorized by the prosecutor shall adopt measures:</i></p> <p><i>a) to prevent any further action being taken or to secure the computer system or part of it or of another data storage device;</i></p> <p><i>b) to take out and obtain copies of computer data;</i></p> <p><i>c) to prevent the access to computer data, or to remove such data from accessible computer systems;</i></p> <p><i>c) to ensure the inviolability of the relevant stored data.</i></p> <p><i>4. For the executions of such actions, the prosecutor may order the summoning of an expert who is competent in the field of computer system functioning or the measures applied for the protection of the computer data. The summoned expert may not refuse to conduct the tasks assigned to him without reasonable grounds.</i></p> <p>The term of "Content Data", is used as interception or recording in the article 221 of the following of Criminal Procedural Code, as follows:</p> <p>INTERCEPTIONS</p> <p><i>Interception of communications of a person or of a telephone number, by means of telephone, fax, computer or any other kind of means, the secret interception by technical means of conversations in private place, the interception by audio and video in private places and the recording of incoming and outgoing telephone numbers, shall be allowed only where there is a proceeding:</i></p> <p><i>a) for crimes committed by intent, punishable by not less than seven years' imprisonment, in the maximum term;</i></p>

	<p><i>b) for each intentional criminal offence, if committed by telecommunication means or with the use of information or telematics technology.</i></p> <p><i>c) for criminal offences referred to in letter "a", of paragraph 1, of Article 75/a, of this Code;</i></p>
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Albanian law has the same rules of procedure apply to obtaining of all types of data, except in case of traffic data we have specified rules of procedure in articles 299/a and 299/b of Criminal Procedural Code (mentioned above).

2. Procedures for preservation requests of stored computer data

2.1 Expedited preservation of stored computer data (Art. 29 of Convention)

General remarks

For the time being, preservation requests are usually executed from Albanian ISPs voluntarily. Albanian ISPs normally comply with such requests but it is not guaranteed, without an order of the prosecution office or by the court.

Preservation requests must be addressed to the 24/7 contact point. Albania's designated 24/7 contact point is Cybercrime Sector, General Directorate of Police, Ministry of Interior of Albania. Preservation of data requests are accepted by e-mail.

In our Criminal Procedure Code, there are no specific procedures for all the steps of expedited preservation of stored computer data and for this reason we directly apply the Art. 29 of Budapest Convention.

Albania also offers expedited execution of MLA requests in case of urgencies. This may exhaust the necessity of the preservation of data. Such requests must be directed to the proceeding authority and after you have to inform the Ministry of Justice. (art. 505, etc of Albania Criminal Procedural Code)

Preservation requests

Step 1: Address the request and assigning case number by 24/7 contact point

Step 2: Relevant ISP is approached and requested to preserve data

Step 3: If ISP confirms data preservation, requesting authority will be notified accordingly.

Step 4: If preservation is not available due to ISP reluctance requesting country is offered urgent MLA procedures

Given the nature of preservation requests they are all treated urgently.

Urgent MLA Requests

Step 1: Any urgent MLA Requests may be addressed to the 24/7 contact point Cybercrime Sector, General Directorate of Police, Ministry of Interior of Albania,

Recording of the request and assigning case number by MLA Central authority

Step 2: Submitting the MLA request direct to the homologous prosecutors as set on the list of IPProceed, via email and cc to Central Authority

Step 3: Legal review of the request by the General Prosecutor Office, International Judicial Unit, which may take few hours and may involve request for more information from the requesting foreign authority.

Step 4: Either Central Authority, or General Prosecutor Office or relevant assigned attorney will seek data from the relevant ISP

Step 5: Responsible attorney to seek ex post court warrant within 24 hours

Step 6: Requested data if available is transmitted to the requesting foreign authority

2.2 Expedited disclosure for stored traffic data (Art. 30 of Convention)

General remarks

Procedures in place

- Step 1: Prosecutor address the request for expedited disclosure for traffic data through 24/7 contact point and I Proceed network and cc to Central authority
- Step 2. Initial review as to the dual criminality. Judicial cooperation central authority may be consulted with.
- Step 3: Relevant ISP is approached and requested to disclose data
- Step 4: If ISP confirms data disclosure, requesting authority will be notified accordingly
- Step 5: If disclosure is not available, requesting authority is offered urgent MLA procedures.

Given the nature of preservation requests they are all treated urgently

3. Procedures for mutual legal assistance

3.1 Requests for stored computer data: subscriber, traffic, content data (Art. 31)

► Requests for subscriber information

General remarks

Although Albanian law distinguishes subscriber information from that of traffic and content data, the same rules of procedure apply to obtaining of all types of data.

Information therefore is presented in a consolidated manner for all types of data, with minor differences marked where applicable.

Competent Authorities

Please refer to contact details of the General Prosecutor Office, foreigndepart@pp.gov.al.

Note: Although request can be technically transmitted via 24/7 or Interpol it must be addressed to the authority indicated above

Relevant contact points

In addition to contact points indicated, the following contact points in our jurisdiction can deal with incoming requests specifically for subscriber information, traffic or content data:

Albania designates e-mails for all incoming MLA which is 24/7 contact point and foreigndepart@pp.gov.al, Your request will be picked up from this mail box and responded as soon as practicable. If any further urgent consultations needed

Prior consultations

For prior consultations with Albanian competent National Authority and / or 24/7 point of contact, please check the below information before submitting the request:

- The preliminary consultation is not a must but highly recommended as a bunch of sophisticated restrictions apply to the access to electronic data. Hence, prior consultation may prevent waste of costs for requests that have no prospect.
 - Consultation can be provided, and email communications are preferred for that. We have designated e-mail for such consultations international@pog.gov.ge.
 - 24/7 point of contact provides similar consultations at cybercrime@mia.gov.ge but please cc your communication to international@pog.gov.ge.
- Albanian Central Authority may review your draft per your request

Accepted legal basis / mechanisms for MLA requests

The following legal instruments/mechanisms listed below are applicable to mutual legal assistance request as legal basis:

- Budapest Convention on Cybercrime
- European Convention on Mutual Assistance in Criminal Matters and Additional Protocols
- Relevant bilateral treaties
- Reciprocity
- Foreign Jurisdiction Relations in Criminal Matters Act 2009

Content of the request

Please ensure that your request complies with the requirements indicated below:

- Description of offences subject to investigation and/or prosecution, applicable law
- Statement of relevant facts, which is sufficient 1. to invoke the applicable criminal law, and 2. to reasonably infer the need for the requested assistance
- Relevant information as probable cause 1. that data is retained/to be transmitted at a place wherefrom it is to be produced; 2. The reasoned relation between the crime and data requested

For requests for subscriber information, you are encouraged to use the [Template for MLA request under art. 31 of the Budapest Convention](#).

Applicable legal requirements

Legal requirements for the provision/obtaining of subscriber information, traffic and content data in Albanian legislation:

- Requesting state in a set of relevant facts need to demonstrate that there is reasonable doubt to believe that specific computer system is used to commit an offence and/or information capable of being evidence is retained/transmitted in the computer system; we need it as the domestic prosecutor need to show this to the magistrate to obtain warrant order; in case of insufficient information, the prosecutor either ask for additional information or will dismiss the case;

- Subscriber information, traffic or content data are available only for the investigation and prosecution of all intentional crimes. Under Albanian law, the minimum penalty under the law of requesting state is not taken into account for this purpose;
- Subscriber information, traffic or content data are available only if the crime for which the assistance is requested is an extraditable offence under Albanian law, and it should not be statute barred under Albanian law

Confidentiality requirements

Confidentiality of your request can be complied with under the following conditions:

Under Albanian law, information related to obtaining subscriber information, traffic and content data is confidential. Court proceedings over prosecution filing for warrant are held *in camera and ex parte*. However, data subjects must be notified within a year after obtaining the data. The same rules apply to interception, disclosure, carried out based on MLA request

Urgent requests

The request can be processed urgently once the following criteria are met:

Urgent requests may be processed as soon as within hours but may normally require a week. Criteria of urgency in respect of requests for subscriber information, traffic and content data would be volatility of data or immediate risk to life or physical integrity of persons. Justification for urgency must be provided by the requesting state.

If request is not urgent but prioritized otherwise it may be processed within 1 month. Criteria for prioritization are: urgency (procedural time limits to expire soon, volatility of data) and seriousness of crimes

Translation

Please refer to the following requirements regarding languages and translation of the incoming request:

Depending on a treaty Albania accepts requests in Albanian, English, and French

English is the most preferred language.

Limitations

Limitations under our national law on the use of evidence provided:

Albania both as a requesting and requested state follows the rule of specialty.

Albania may grant request for the extension of use of already transmitted evidence if the extended use would not come in conflict with relevant MLA treaties and domestic law.

3.2 Requests for real time collection of traffic data (Art. 33)

General remarks

Competent Authorities

Relevant contact points

Prior consultations

Accepted legal basis / mechanisms for MLA requests

Content of the request

Applicable legal requirements

Confidentiality requirements

Urgent requests

Translation

Limitations

3.3 Requests for interception of content data (Art. 34)

General remarks

Under the Albanian legislation, CCP and Law on Interception of Telecommunication Data, the same rules of procedure apply interception of content data.

Information therefore is presented in a consolidated manner, with minor differences marked where applicable.

Competent Authorities

General Prosecutor Office, foreigndepart@pp.gov.al.

The request can be technically transmitted via 24/7 or Interpol it must be addressed to the authority indicated above.

Relevant contact points

In addition to contact points indicated, the following contact points in our jurisdiction can deal with incoming requests specifically for traffic or content data:

Albania designates e-mail for all incoming MLA and consultation requests which is foregndepart@pp.gov.a, foreigndepart@drejtesia.gov.al

Your request will be picked up from this mail box and responded as soon as practicable.

Prior consultations

For prior consultations with Albanian competent National Authority and / or 24/7 point of contact, please check the below information before submitting the request:

- The preliminary consultation is not a must but highly recommended as a bunch of sophisticated restrictions apply to the access to electronic data. Hence, prior consultation may prevent waste of costs for requests that have no prospect.
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- Albanian Central Authority may review your draft per your request.

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The following legal instruments/mechanisms listed below are applicable to mutual legal assistance request as legal basis:

- Budapest Convention on Cybercrime
- European Convention on Mutual Assistance in Criminal Matters and Additional Protocols
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Please ensure that your request complies with the requirements indicated below:

- Description of offences subject to investigation and/or prosecution, applicable law
- Statement of relevant facts, which is sufficient 1. to invoke the applicable criminal law, and 2. to reasonably infer the need for the requested assistance

- Relevant information as probable cause 1. that data is retained/to be transmitted at a place wherefrom it is to be produced; 2. The reasoned relation between the crime and data requested

For requests for subscriber information, you are encouraged to use the [Template for MLA request under art. 31 of the Budapest Convention](#).

Applicable legal requirements

Legal requirements for the provision/obtaining of subscriber information, traffic and content data in Albanian legislation:

- Requesting state in a set of relevant facts need to demonstrate that there is reasonable doubt to believe that specific computer system is used to commit an offence and/or information capable of being evidence is retained/transmitted in the computer system; we need it as the domestic prosecutor need to show this to the magistrate to obtain warrant order; in case of insufficient information, the prosecutor either ask for additional information or will dismiss the case;
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Limitations

Limitations under our national law on the use of evidence provided:

Albania both as a requesting and requested state follows the rule of specialty.

Albania may grant request for the extension of use of already transmitted evidence if the extended use would not come in conflict with relevant MLA treaties and domestic law.

Content Data The interception of content data (Article 21 Budapest Convention) is directly implemented in Albanian legislation by Article 121, 122 of the Criminal Procedure Code and Law on Interception of Electronic Communication. The necessary conditions and safeguards include on-going formal investigation, probable cause, court order, and limitations in time.